

REMARKS/ARGUMENTS

Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks. Claims 1-14 are pending, and claims 1, 2 and 14 are independent claims. Claims 1, 2, 7 and 10-14 have been finally rejected, and claims 3-6, 8 and 9 include allowable subject matter. Applicants respectfully request reconsideration of the Final Rejection.

§ 102(e) REJECTION – WANG

Claims 1, 10 and 14 have been finally rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by Wang et al. (USP 6,167,084, hereinafter "Wang"). Applicants respectfully traverse the rejection. For a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. See *M.P.E.P.* § 2131; *M.P.E.P.* § 706.02. Thus, if the cited reference fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn. The Applicants respectfully submit that Wang fails to teach, show or suggest, "a parameter setting section for selectively adding, after multiplexing has occurred, a parameter to the multiplexed packet string output from the multiplexing section to output an output multiplex stream."

The Office Action has relied upon Fig. 4 (sic) of Wang to show a MPEG encoder 620 (a coding section) and a Mux 660 (a multiplexing section) and a rate control processor (a parameter setting section) that allegedly correspond to the elements of

claim 1. It is respectfully submitted that the rate control processor does not correspond to the claimed parameter setting section or step of claims 1, 10 and 14. It is also respectfully submitted that Wang does not disclose any parameter setting section that sets a parameter after multiplexing.

The claimed parameter setting section or step of claims 1, 10 and 14 sets the parameters after multiplexing has occurred. Wang at col. 18, lines 46-48 clearly teaches that a parameter is adjusted in either the MPEG encoders or transcoders which are disposed before the multiplexer. The Examiner's allegation that an adjusted parameter may appear in the data stored in the encoder buffer 670 which is disposed after the multiplexer does not literally meet the limitations of claims 1, 10 and 14. In order to meet the limitations of claim 1, 10 and 14 the parameter setting must occur after the multiplexing. Accordingly, the Examiner is respectfully requested to withdraw the rejection of claims 1, 10 and 14 as being anticipated by Wang.

§ 102(e) REJECTION – OBIKANE

Claims 2 and 7 have been finally rejected under 35 U.S.C. § 102(e) as allegedly anticipated by Obikane (USP 6,404,818, hereinafter "Obikane"). Applicants respectfully traverse the rejection. As stated above, for a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. In this instance, Obikane fails to teach or suggest each and every claimed element. For example, claim 2 recites "a parameter setting section for selectively adding a parameter

to the multiplexed packet string output". In other words, the parameter is set **after multiplexing has occurred**, because in Applicants' claimed invention the parameter is added to the multiplexed packet string output.

In the Office Action (page 2, section 2), it has been alleged that the packetizer 21B of Fig. 12 of Obikane is a parameter setting section which corresponds to Applicants' claimed "parameter setting section". From Fig. 12, it is clear that the packetizer 21B packetizes the coded video data S21 before the coded video data is multiplexed by the multiplexer 29. In other words, the parameters of Obikane are not set in the final output or after multiplexing by the multiplexer 29. Instead, Obikane teaches that the parameters be set before the coded video data is multiplexed.

In the Applicants' claimed invention certain parameters are set after multiplexing. For example, the Applicants have discovered that if parameters having continuity are added in the parameter setting section of the media data coding and multiplexing apparatus at the final stage (after multiplexing), parameters which need to be set continuously can be set in one batch and continuity can be easily held. There is no disclosure whatsoever of this claimed feature in the Obikane patent, and Obikane actually appears to teach away from the claimed invention by setting parameters before multiplexing.

For at least the above stated reasons, independent claim 2 is patentable and not anticipated by Obikane. Since dependent claim 7 depends from claim 2, it is

respectfully submitted that dependent claim 7 is patentable and not anticipated by Obikane for at least the same reasons as claim 2.

§ 103 REJECTION – Wang

Claims 11-13 stand finally rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Wang. Applicants respectfully traverse this rejection. Since it has been shown above that claim 1 is patentable over Wang, and since claims 11-13 depend from independent claim 1, claims 11-13 are also patentable over Wang for at least the same reasons. Applicants also respectfully request that the final rejection of claims 11-13, based on Wang, be withdrawn.

ALLOWABLE SUBJECT MATTER

Applicants note that the claims 3-6 and 8-9 are indicated to define allowable subject matter, but they have been objected to as depending upon rejected base claims. It is respectfully submitted that the rejected base claims are in condition for allowance, and it respectfully requested that the objection to claims 3-6 and 8-9 be withdrawn.

CONCLUSION


All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is

respectfully requested to contact Richard McGrath (Reg. No. 29,195), to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: December 1, 2005

Respectfully submitted,

By  #39,491
Michael K. Mutter
Registration No.: 29,680
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Rd
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorneys for Applicants